



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3963

by Rep. Joe Sosnowski

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-150-2 new
70 ILCS 3705/7.4 new
70 ILCS 3710/5.3 new
70 ILCS 3715/6
70 ILCS 3720/0.001b
220 ILCS 5/8-306

from Ch. 111 2/3, par. 228

Amends the Illinois Municipal Code. Provides that on or after the effective date of this amendatory Act, a municipality may not retroactively bill for unaccounted-for water that predates by more than 2 years the installation of a new meter or repair of an existing meter. Amends the Public Water District Act, the Water Service District Act, the Water Authorities Act, the Water Commission Act, and the Public Utilities Act making similar changes. Effective immediately.

LRB099 09447 AWJ 29654 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by adding
5 Section 11-150-2 as follows:

6 (65 ILCS 5/11-150-2 new)

7 Sec. 11-150-2. Unaccounted-for water. On or after the
8 effective date of this amendatory Act of the 99th General
9 Assembly, the corporate authorities of any municipality
10 operating a waterworks or combined waterworks and sewerage
11 system may not retroactively bill a public or private user for
12 unaccounted-for water that predates by more than 2 years the
13 installation of a new meter or repair of an existing meter.

14 Section 10. The Public Water District Act is amended by
15 adding Section 7.4 as follows:

16 (70 ILCS 3705/7.4 new)

17 Sec. 7.4. Unaccounted-for water. On or after the effective
18 date of this amendatory Act of the 99th General Assembly, no
19 public water district may retroactively bill for
20 unaccounted-for water that predates the installation of a new
21 meter or repair of an existing meter by more than 2 years.

1 Section 15. The Water Service District Act is amended by
2 adding Section 5.3 as follows:

3 (70 ILCS 3710/5.3 new)

4 Sec. 5.3. Unaccounted-for water. On or after the effective
5 date of this amendatory Act of the 99th General Assembly, no
6 water service district may retroactively bill for
7 unaccounted-for water that predates the installation of a new
8 meter or repair of an existing meter by more than 2 years.

9 Section 20. The Water Authorities Act is amended by
10 changing Section 6 as follows:

11 (70 ILCS 3715/6) (from Ch. 111 2/3, par. 228)

12 Sec. 6. Such board of trustees shall have the following
13 powers:

14 1. To make inspections of wells or other withdrawal
15 facilities and to require information and data from the owners
16 or operators thereof concerning the supply, withdrawal and use
17 of water.

18 2. To require the registration with them of all wells or
19 other withdrawal facilities in accordance with such form or
20 forms as they deem advisable.

21 3. To require permits from them for all additional wells or
22 withdrawal facilities or for the deepening, extending or

1 enlarging existing wells or withdrawal facilities.

2 4. To require the plugging of abandoned wells or the repair
3 of any well or withdrawal facility to prevent loss of water or
4 contamination of supply.

5 5. To reasonably regulate the use of water and during any
6 period of actual or threatened shortage to establish limits
7 upon or priorities as to the use of water. In issuing any such
8 regulation, limitation, or priority, such board shall seek to
9 promote the common welfare by considering the public interest,
10 the average amount of present withdrawals, relative benefits or
11 importance of use, economy or efficiency of use and any other
12 reasonable differentiation. Appropriate consideration shall
13 also be given to any user, who has theretofore reduced the
14 volume of ground water previously consumed by such user or who
15 has taken care of increased requirements by installing and
16 using equipment and facilities permitting the use of surface
17 water by such user.

18 6. To supplement the existing water supply or provide
19 additional water supply by such means as may be practicable or
20 feasible. They may acquire property or property rights either
21 within or without the boundaries of the authority by purchase,
22 lease, condemnation proceedings or otherwise, and they may
23 construct, maintain and operate wells, reservoirs, pumping
24 stations, purification plants, infiltration pits, recharging
25 wells and such other facilities as may be necessary to insure
26 an adequate supply of water for the present and future needs of

1 the authority. They shall have the right to sell water to
2 municipalities or public utilities operating water
3 distribution systems either within or without the authority.

4 7. To levy and collect a general tax on all of the taxable
5 property within the corporate limits of the authority, the
6 aggregate amount of which for one year, exclusive of the amount
7 levied for bonded indebtedness or interest thereon, shall not
8 exceed .08 per cent of the value as equalized or assessed by
9 the Department of Revenue. For the purpose of acquiring
10 necessary property or facilities, to issue general obligation
11 bonds bearing interest at the rate of not to exceed the maximum
12 rate authorized by the Bond Authorization Act, as amended at
13 the time of the making of the contract, and payable over a
14 period of not to exceed 20 years, the aggregate principal
15 amount of which at any one time outstanding shall not exceed
16 one-half of 1% of the value as equalized or assessed by the
17 Department of Revenue of all taxable property located within
18 the corporate limits of the authority and to levy and collect a
19 further or additional direct annual tax upon all the taxable
20 property within the corporate limits of such authority
21 sufficient to meet the principal and interest of such bonds as
22 the same mature. They shall also have authority to issue
23 revenue bonds payable solely out of anticipated revenues.

24 8. To consult with and receive available information
25 concerning their duties and responsibilities from the State
26 Water Survey, the State Geological Survey, the Board of Natural

1 Resources and Conservation, the Water Resources and Flood
2 Control Board and any other board or commission of the State.
3 Before constructing any facility for providing additional
4 water supply, the plans therefor shall be submitted to and
5 approved by the Environmental Protection Agency or its
6 successor and all operations of such facilities shall be
7 conducted in accordance with such rules and regulations as may
8 from time to time be prescribed by the Pollution Control Board.

9 9. To have the right by appropriate action in the circuit
10 court of any county in which such authority, or any part
11 thereof, is located to restrain any violation or threatened
12 violation of any of their orders, rules, regulations or
13 ordinances.

14 10. To provide by ordinance that the violation of any
15 provision of any rule, regulation or ordinance adopted by them
16 shall constitute a misdemeanor subject to a fine by the circuit
17 court of not to exceed \$50 for each act of violation and that
18 each day's violation shall constitute a separate offense.

19 11. To retroactively bill for unaccounted-for water.
20 However, on or after the effective date of this amendatory Act
21 of the 99th General Assembly no water authority may
22 retroactively bill for unaccounted-for water that predates the
23 installation of a new meter or repair of an existing meter by
24 more than 2 years.

25 With respect to instruments for the payment of money issued
26 under this Section either before, on, or after the effective

1 date of this amendatory Act of 1989, it is and always has been
2 the intention of the General Assembly (i) that the Omnibus Bond
3 Acts are and always have been supplementary grants of power to
4 issue instruments in accordance with the Omnibus Bond Acts,
5 regardless of any provision of this Act that may appear to be
6 or to have been more restrictive than those Acts, (ii) that the
7 provisions of this Section are not a limitation on the
8 supplementary authority granted by the Omnibus Bond Acts, and
9 (iii) that instruments issued under this Section within the
10 supplementary authority granted by the Omnibus Bond Acts are
11 not invalid because of any provision of this Act that may
12 appear to be or to have been more restrictive than those Acts.

13 (Source: P.A. 86-4.)

14 Section 25. The Water Commission Act of 1985 is amended by
15 changing Section 0.001b as follows:

16 (70 ILCS 3720/0.001b)

17 Sec. 0.001b. Powers and duties. A water commission has the
18 power and duty to:

19 (1) establish and define the responsibilities of the
20 commission and its committees;

21 (2) establish and define the responsibilities of the
22 commission's management and staff;

23 (3) establish a finance committee to conduct monthly
24 meetings to supervise staff's handling of financial

1 matters and budgeting;

2 (4) require the finance director and treasurer to
3 report to the finance committee the status of all
4 commission funds and obligations;

5 (5) require the treasurer to report to the commission
6 any improper or unnecessary expenditures, budgetary
7 errors, or accounting irregularities;

8 (6) require commission staff to document and comply
9 with standard accounting policies, procedures, and
10 controls to ensure accurate reporting to the finance
11 committee and commission and to identify improper or
12 unnecessary expenditures, budgetary errors, or accounting
13 irregularities;

14 (7) require the commission's finance director to
15 provide monthly reports regarding the commission's cash
16 and investment position including whether the commission
17 has sufficient cash and investments to pay its debt
18 service, operating expenses, and capital expenditures and
19 maintain required reserve levels. The information shall
20 include the required funding levels for restricted funds
21 and unrestricted cash and investment balances with
22 comparisons to unrestricted reserves. The information
23 shall also include the type and performance of the
24 commission's investments and description as to whether
25 those investments are in compliance with the commission's
26 investment policies;

1 (8) require the commission's finance director to
2 provide the commission with detailed information
3 concerning the commission's operating performance
4 including the budgeted and actual monthly amounts for water
5 sales, water costs, and other operating expenses;

6 (9) require commission staff to provide the commission
7 with detailed information regarding the progress of
8 capital projects including whether the percentage of
9 completion and costs incurred are timely;

10 (10) require the commission's staff accountant to
11 perform bank reconciliations and general ledger account
12 reconciliations on a monthly basis; the finance director
13 shall review these reconciliations and provide them to the
14 treasurer and the finance committee on a monthly basis;

15 (11) establish policies to ensure the proper
16 segregation of the financial duties performed by
17 employees;

18 (12) restrict access to the established accounting
19 systems and general ledger systems and provide for adequate
20 segregation of duties so that no single person has sole
21 access and control over the accounting system or the
22 general ledger system;

23 (13) require that the finance director review and
24 approve all manual journal entries and supporting
25 documentation; the treasurer shall review and approve the
26 finance director's review and approval of manual journal

1 entries and supporting documentation;

2 (14) require that the finance director closely monitor
3 the progress of construction projects;

4 (15) require that the finance director carefully
5 document any GAAP analysis or communications with GASB and
6 provide full and timely reports for the same to the finance
7 committee; ~~and~~

8 (16) retain an outside independent auditor to perform a
9 comprehensive audit of the water commission's financial
10 activities for each fiscal year in conformance with the
11 standard practices of the Association of Governmental
12 Auditors; within 30 days after the independent audit is
13 completed, the results of the audit must be sent to the
14 county auditor; and-

15 (17) to retroactively bill for unaccounted-for water.
16 However, on or after the effective date of this amendatory
17 Act of the 99th General Assembly no water commission may
18 retroactively bill for unaccounted-for water that predates
19 the installation of a new meter or repair of an existing
20 meter by more than 2 years.

21 (Source: P.A. 96-1389, eff. 7-29-10.)

22 Section 30. The Public Utilities Act is amended by changing
23 Section 8-306 as follows:

24 (220 ILCS 5/8-306)

1 Sec. 8-306. Special provisions relating to water and sewer
2 utilities.

3 (a) No later than 120 days after the effective date of this
4 amendatory Act of the 94th General Assembly, the Commission
5 shall prepare, make available to customers upon request, and
6 post on its Internet web site information concerning the
7 service obligations of water and sewer utilities and remedies
8 that a customer may pursue for a violation of the customer's
9 rights. The information shall specifically address the rights
10 of a customer of a water or sewer utility in the following
11 situations:

12 (1) The customer's water meter is replaced.

13 (2) The customer's bill increases by more than 50%
14 within one billing period.

15 (3) The customer's water service is terminated.

16 (4) The customer wishes to complain after receiving a
17 termination of service notice.

18 (5) The customer is unable to make payment on a billing
19 statement.

20 (6) A rate is filed, including without limitation a
21 surcharge or annual reconciliation filing, that will
22 increase the amount billed to the customer.

23 (7) The customer is billed for services provided prior
24 to the date covered by the billing statement.

25 (8) The customer is due to receive a credit.

26 Each billing statement issued by a water or sewer utility

1 shall include an Internet web site address where the customer
2 can view the information required under this subsection (a) and
3 a telephone number that the customer may call to request a copy
4 of the information.

5 (b) A water or sewer utility may discontinue service only
6 after it has mailed or delivered by other means a written
7 notice of discontinuance substantially in the form of Appendix
8 A of 83 Ill. Adm. Code 280. The notice must include the
9 Internet web site address where the customer can view the
10 information required under subsection (a) and a telephone
11 number that the customer may call to request a copy of the
12 information. Any notice required to be delivered or mailed to a
13 customer prior to discontinuance of service shall be delivered
14 or mailed separately from any bill. Service shall not be
15 discontinued until at least 5 days after delivery or 8 days
16 after the mailing of this notice. Service shall not be
17 discontinued and shall be restored if discontinued for the
18 reason which is the subject of a dispute or complaint during
19 the pendency of informal or formal complaint procedures of the
20 Illinois Commerce Commission under 83 Ill. Adm. Code 280.160 or
21 280.170, where the customer has complied with those rules.
22 Service shall not be discontinued and shall be restored if
23 discontinued where a customer has established a deferred
24 payment agreement pursuant to 83 Ill. Adm. Code 280.110 and has
25 not defaulted on such agreement. Residential customers who are
26 indebted to a utility for past due utility service shall have

1 the opportunity to make arrangements with the utility to retire
2 the debt by periodic payments, referred to as a deferred
3 payment agreement, unless this customer has failed to make
4 payment under such a plan during the past 12 months. The terms
5 and conditions of a reasonable deferred payment agreement shall
6 be determined by the utility after consideration of the
7 following factors, based upon information available from
8 current utility records or provided by the customer or
9 applicant:

10 (1) size of the past due account;

11 (2) customer or applicant's ability to pay;

12 (3) customer or applicant's payment history;

13 (4) reason for the outstanding indebtedness; and

14 (5) any other relevant factors relating to the
15 circumstances of the customer or applicant's service.

16 A residential customer shall pay a maximum of one-fourth of the
17 amount past due and owing at the time of entering into the
18 deferred payment agreement, and the water or sewer utility
19 shall allow a minimum of 2 months from the date of the
20 agreement and a maximum of 12 months for payment to be made
21 under a deferred payment agreement. Late payment charges may be
22 assessed against the amount owing that is the subject of a
23 deferred payment agreement.

24 (c) A water or sewer utility shall provide notice as
25 required by subsection (a) of Section 9-201 after the filing of
26 each information sheet under a purchased water surcharge,

1 purchased sewage treatment surcharge, or qualifying
2 infrastructure plant surcharge. The utility also shall post
3 notice of the filing in accordance with the requirements of 83
4 Ill. Adm. Code 255. Unless filed as part of a general rate
5 increase, notice of the filing of a purchased water surcharge
6 rider, purchased sewage treatment surcharge rider, or
7 qualifying infrastructure plant surcharge rider also shall be
8 given in the manner required by this subsection (c) for the
9 filing of information sheets.

10 (d) Commission rules pertaining to formal and informal
11 complaints against public utilities shall apply with full and
12 equal force to water and sewer utilities and their customers,
13 including provisions of 83 Ill. Adm. Code 280.170, and the
14 Commission shall respond to each complaint by providing the
15 consumer with a copy of the utility's response to the complaint
16 and a copy of the Commission's review of the complaint and its
17 findings. The Commission shall also provide the consumer with
18 all available options for recourse.

19 (e) Any refund shown on the billing statement of a customer
20 of a water or sewer utility must be itemized and must state if
21 the refund is an adjustment or credit.

22 (f) Water service for building construction purposes. At
23 the request of any municipality or township within the service
24 area of a public utility that provides water service to
25 customers within the municipality or township, a public utility
26 must (1) require all water service used for building

1 construction purposes to be measured by meter and subject to
2 approved rates and charges for metered water service and (2)
3 prohibit the unauthorized use of water taken from hydrants or
4 service lines installed at construction sites.

5 (g) Water meters.

6 (1) Periodic testing. Unless otherwise approved by the
7 Commission, each service water meter shall be periodically
8 inspected and tested in accordance with the schedule
9 specified in 83 Ill. Adm. Code 600.340, or more frequently
10 as the results may warrant, to insure that the meter
11 accuracy is maintained within the limits set out in 83 Ill.
12 Adm. Code 600.310.

13 (2) Meter tests requested by customer.

14 (A) Each utility furnishing metered water service
15 shall, without charge, test the accuracy of any meter
16 upon request by the customer served by such meter,
17 provided that the meter in question has not been tested
18 by the utility or by the Commission within 2 years
19 previous to such request. The customer or his or her
20 representatives shall have the privilege of witnessing
21 the test at the option of the customer. A written
22 report, giving the results of the test, shall be made
23 to the customer.

24 (B) When a meter that has been in service less than
25 2 years since its last test is found to be accurate
26 within the limits specified in 83 Ill. Adm. Code

1 600.310, the customer shall pay a fee to the utility
2 not to exceed the amounts specified in 83 Ill. Adm.
3 Code 600.350(b). Fees for testing meters not included
4 in this Section or so located that the cost will be out
5 of proportion to the fee specified will be determined
6 by the Commission upon receipt of a complete
7 description of the case.

8 (3) Commission referee tests. Upon written application
9 to the Commission by any customer, a test will be made of
10 the customer's meter by a representative of the Commission.
11 For such a test, a fee as provided for in subsection (g) (2)
12 shall accompany the application. If the meter is found to
13 be registering more than 1.5% fast on the average when
14 tested as prescribed in 83 Ill. Adm. Code 600.310, the
15 utility shall refund to the customer the amount of the fee.
16 The utility shall in no way disturb the meter after a
17 customer has made an application for a referee test until
18 authority to do so is given by the Commission or the
19 customer in writing.

20 (h) Water and sewer utilities; low usage. Each public
21 utility that provides water and sewer service must establish a
22 unit sewer rate, subject to review by the Commission, that
23 applies only to those customers who use less than 1,000 gallons
24 of water in any billing period.

25 (i) Water and sewer utilities; separate meters. Each public
26 utility that provides water and sewer service must offer

1 separate rates for water and sewer service to any commercial or
2 residential customer who uses separate meters to measure each
3 of those services. In order for the separate rate to apply, a
4 combination of meters must be used to measure the amount of
5 water that reaches the sewer system and the amount of water
6 that does not reach the sewer system.

7 (j) Each water or sewer public utility must disclose on
8 each billing statement any amount billed that is for service
9 provided prior to the date covered by the billing statement.
10 The disclosure must include the dates for which the prior
11 service is being billed. Each billing statement that includes
12 an amount billed for service provided prior to the date covered
13 by the billing statement must disclose the dates for which that
14 amount is billed and must include a copy of the document
15 created under subsection (a) and a statement of current
16 Commission rules concerning unbilled or misbilled service.

17 (k) When the customer is due a refund resulting from
18 payment of an overcharge, the utility shall credit the customer
19 in the amount of overpayment with interest from the date of
20 overpayment by the customer. The rate for interest shall be at
21 the appropriate rate determined by the Commission under 83 Ill.
22 Adm. Code 280.70.

23 (l) Water and sewer public utilities; subcontractors. The
24 Commission shall adopt rules for water and sewer public
25 utilities to provide notice to the customers of the proper kind
26 of identification that a subcontractor must present to the

1 customer, to prohibit a subcontractor from soliciting or
2 receiving payment of any kind for any service provided by the
3 water or sewer public utility or the subcontractor, and to
4 establish sanctions for violations.

5 (m) Water and sewer public utilities; unaccounted-for
6 water. By December 31, 2006, each water public utility shall
7 file tariffs with the Commission to establish the maximum
8 percentage of unaccounted-for water that would be considered in
9 the determination of any rates or surcharges. The rates or
10 surcharges approved for a water public utility shall not
11 include charges for unaccounted-for water in excess of this
12 maximum percentage without well-documented support and
13 justification for the Commission to consider in any request to
14 recover charges in excess of the tariffed maximum percentage.

15 (n) Rate increases; public forums. When any public utility
16 providing water or sewer service proposes a general rate
17 increase, in addition to other notice requirements, the water
18 or sewer public utility must notify its customers of their
19 right to request a public forum. A customer or group of
20 customers must make written request to the Commission for a
21 public forum and must also provide written notification of the
22 request to the customer's municipal or, for unincorporated
23 areas, township government. The Commission, at its discretion,
24 may schedule the public forum. If it is determined that public
25 forums are required for multiple municipalities or townships,
26 the Commission shall schedule these public forums, in locations

1 within approximately 45 minutes drive time of the
2 municipalities or townships for which the public forums have
3 been scheduled. The public utility must provide advance notice
4 of 30 days for each public forum to the governing bodies of
5 those units of local government affected by the increase. The
6 day of each public forum shall be selected so as to encourage
7 the greatest public participation. Each public forum will begin
8 at 7:00 p.m. Reports and comments made during or as a result of
9 each public forum must be made available to the hearing
10 officials and reviewed when drafting a recommended or tentative
11 decision, finding or order pursuant to Section 10-111 of this
12 Act.

13 (o) On or after the effective date of this amendatory Act
14 of the 99th General Assembly, no public utility may
15 retroactively bill a consumer or patron for unaccounted-for
16 water that predates by more than 2 years the installation of a
17 new meter or repair of an existing meter.

18 (Source: P.A. 94-950, eff. 6-27-06.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.